

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

ANTHONY MILLER,  
Plaintiff,

22-CV-6069 (FPG) (MJP)

v.

THE CITY OF ROCHESTER, MARYROSE M. WENGERT AND  
EARL G. WENGERT, AS CO-EXECUTORS OF THE ESTATE OF  
NOLAN WENGERT (deceased), DARYL HOGG, JASON  
PRINZI, DANIEL WATSON, and "JOHN DOE" RPD  
OFFICERS 1-10,  
Defendants.

THE STATE OF NEW YORK  
COURT OF CLAIMS

ANTHONY MILLER,  
Plaintiff,

Claim No. 135854

v.

THE STATE OF NEW YORK,  
Defendant.

Video-recorded Deposition Upon Oral Examination of:

Officer Daniel Watson

Location: Alliance Court Reporting, Inc.  
109 South Union Street, Suite 400  
Rochester, New York 14607

Date: March 8, 2023

Time: 9:45 a.m.

Reported By: MICHELLE MUNDT ROCHA  
Alliance Court Reporting, Inc.  
109 South Union Street, Suite 400  
Rochester, New York 14607



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A P P E A R A N C E S

Appearing Remotely on Behalf of Plaintiff:

Elliot D. Shields, Esq.  
Roth & Roth LLP  
192 Lexington Avenue, Suite 802  
New York, New York 10016  
eshields@rothandrothlaw.com

Also Remotely Present:

Anthony Miller

Appearing on Behalf of Defendants  
The City of Rochester, Maryrose M. Wengert and  
Earl G. Wengert, as co-executors of the Estate of  
Nolan Wengert (deceased), Daryl Hogg, Jason Prinzi,  
Daniel Watson, and "John Doe" RPD Officers 1-10:

Patrick B. Naylon, Esq.  
City of Rochester Law Department  
City Hall, Room 400A  
30 Church Street  
Rochester, New York 14614-1224  
patrick.naylon@cityofrochester.gov

Appearing Remotely on Behalf of Defendant  
The State of New York:

Tamara B. Christie, Esq.  
New York State Office of the Attorney General  
Court Exchange Building  
144 Exchange Boulevard, Suite 200  
Rochester, New York 14614-2176  
Tamara.Christie@ag.ny.gov

Also Present:

Peter H. Colucci, Videographer  
Alliance Court Reporting, Inc.  
109 South Union Street, Suite 400  
Rochester, New York 14607

\* \* \*



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S T I P U L A T I O N S

WEDNESDAY, MARCH 8, 2023;

(Proceedings in the above-titled matter  
commencing at 9:47 a.m.)

\* \* \*

IT IS HEREBY STIPULATED by and between the  
attorneys for the respective parties that this  
deposition may be taken by the Plaintiff at this time  
pursuant to notice;

IT IS FURTHER STIPULATED, that all  
objections except as to the form of the questions and  
responsiveness of the answers, be reserved until the  
time of the trial;

IT IS FURTHER STIPULATED, that pursuant to  
Federal Rules of Civil Procedure 30(e)(1) the witness  
requests to review the transcript and make any  
corrections to same before any Notary Public;

IT IS FURTHER STIPULATED, that if the  
original deposition has not been duly signed by the  
witness and returned to the attorney taking the  
deposition by the time of trial or any hearing in this  
cause, a certified transcript of the deposition may be  
used as though it were the original;

IT IS FURTHER STIPULATED, that the  
attorneys for the parties are individually responsible



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## P R O C E E D I N G S

for their certified transcript charge, including any expedite or other related production charges in accordance with Rochester Rules, and Mr. Shields will be responsible for Ms. Christie's certified transcript charge;

AND IT IS FURTHER STIPULATED, that the Notary Public, MICHELLE MUNDT ROCHA, may administer the oath to the witness.

\* \* \*

THE VIDEOGRAPHER: Good morning. We are on the record at 9:47 a.m. Today is Wednesday, March 8, 2023. My name is Peter Colucci, of Alliance Court Reporting, located at 109 South Union Street, Suite 400 in Rochester, New York.

We are at the location of Alliance Court Reporting. We are about to begin the video-recorded deposition of Daniel Watson in the matter of Anthony Miller versus the City of Rochester, et al.

Would the attorneys please announce their appearances for the record.

MR. SHIELDS: For the Plaintiff Anthony Miller, Elliot Shields, Roth and Roth LLP.

MR. NAYLON: Pat Naylon, City of Rochester Law Department, for City of Rochester and the



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1 OFFICER DANIEL WATSON - BY MR. SHIELDS  
2 Defendants.

3 MS. CHRISTIE: And just for the court  
4 reporter's purposes, there should be a double caption  
5 on this, I think. There's two actions that are being  
6 covered by this deposition. The one against -- from  
7 Mr. Miller to the City, and then the second one where  
8 I come in is Anthony Miller versus the State of New  
9 York, which is the Court of Claims action, and I am  
10 representing the State. And that is Claim Number  
11 135854.

12 THE VIDEOGRAPHER: The court reporter  
13 today is Michelle Rocha, of Alliance Court Reporting.  
14 The witness may be sworn in.

15 OFFICER DANIEL WATSON,  
16 called herein as a witness, first being sworn,  
17 testified as follows:

18 EXAMINATION BY MR. SHIELDS:

19 Q. Morning, Officer.

20 A. Good morning.

21 Q. My name is Elliot Shields. I represent  
22 Anthony Miller, who was wrongfully convicted and spent  
23 six years in jail for a crime he didn't commit. I'm  
24 going to ask you some questions today.

25 Okay?



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1 OFFICER DANIEL WATSON - BY MR. SHIELDS

2 heard over the radio at the time on that day before  
3 you responded to Millbank and Bradburn?

4 MR. NAYLON: Form.

5 A. I don't recall.

6 Q. But as we're sitting here and looking at  
7 the CAD report and listening to the audio recording,  
8 we matched up the timeline, and that's something that  
9 was called out over the radio before you called out as  
10 indicated on the CAD report that you responded to that  
11 area; correct?

12 MR. NAYLON: Form.

13 A. Right. I'm just stating that I can't -- I  
14 can't answer if I heard that on that day. That's what  
15 I'm answering to.

16 Q. So on that day that radio call was made  
17 before you responded to the area of Millbank and  
18 Bradburn; correct?

19 A. That's correct.

20 Q. And when you're responding to a call, are  
21 you listening to the radio?

22 A. Yes. I just do not know what I was --  
23 what job I was prior to that. Because I'm not even on  
24 this job yet, as you can see by the CAD display.

25 Q. Okay. So basically how would you respond



1 OFFICER DANIEL WATSON - BY MR. SHIELDS

2 and get onto the job?

3 A. Either on the computer you can do it by  
4 typing it in or get on the radio. Or in this case it  
5 would probably be the admin channel because the  
6 primary channel's tied up.

7 Q. So what's the admin channel?

8 A. Channel 5.

9 Q. Is that something that would be recorded  
10 on the CAD report or no?

11 A. Yes, if it -- yes.

12 Q. Okay. So is that recorded here, then, on  
13 Exhibit 1 that is displayed on the screen?

14 MR. NAYLON: Is what recorded there?

15 Q. Is the response --

16 MR. SHIELDS: And, Pat, I'm just going to  
17 ask for you to let the officer say if he's confused  
18 and not, you know, seek clarification for him. But  
19 I'll withdraw my question.

20 Q. And, Officer, my question is as we look at  
21 this Exhibit 1, the CAD report, and you see at 2007  
22 that it says assist onscene and 2 -- 5223, which was  
23 you, you said you weren't on the job yet; correct?  
24 Before this, you weren't on the job; right?

25 A. Correct. Until that point right there.



1 OFFICER DANIEL WATSON - BY MR. SHIELDS

2 Q. So before that, you never called out that  
3 you were going to respond to this job at all; correct?

4 A. Correct.

5 Q. So the first time that you called out that  
6 you were going to be on the job was when you were  
7 already onscene?

8 A. Yes, it looks like I was onscene at  
9 Millbank and Bradburn.

10 Q. And is that normal for you to not call out  
11 until you're already on the scene?

12 MR. NAYLON: Form.

13 You can answer.

14 A. With a lot of radio traffic going on, it's  
15 not out of the question, no.

16 Q. So -- and you said before that you might  
17 have responded on channel 5; is that right?

18 A. Correct.

19 Q. So channel 5 might not have been recorded  
20 on this document that we've marked as Exhibit 1, the  
21 CAD report?

22 A. If you're on channel 5, it has a  
23 dispatcher assigned to it, so it would be on that  
24 form. So that -- I don't know what the 8045 number  
25 is. That could be a different dispatcher if I did it





1 OFFICER DANIEL WATSON - BY MR. SHIELDS  
2 on channel 5.

3 Q. Would you normally call out to the other  
4 officers that you were going to respond before you  
5 arrived onscene?

6 MR. NAYLON: Form.

7 A. It depends on the situation.

8 Q. In a situation like this where there was a  
9 call for an armed robbery, would you normally call out  
10 to the other officers that you were responding before  
11 you arrived onscene?

12 MR. NAYLON: Object to the form.

13 You can answer.

14 A. It depends on where I was. So if I was  
15 just in that area pulling up with Officer Hogg, then  
16 I'd call in that I was the primary.

17 Q. Now, is the area of Millbank and Bradburn  
18 within the geographic confines of your 52 beat?

19 A. No. It's 53.

20 Q. But you might have been in the 53 area?  
21 That's, like, not something that would be uncommon at  
22 that time?

23 A. That's correct.

24 Q. So you could have just been, like, right  
25 around the corner from Millbank and Bradburn and



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1 OFFICER DANIEL WATSON - BY MR. SHIELDS

2 responded right to the scene?

3 A. Yeah, I don't know where I was.

4 Q. As we sit here today, you have no  
5 independent recollection of what you were doing  
6 immediately before you responded to the scene?

7 A. No.

8 Q. So as far as the CAD report goes, it  
9 reports that at 8:07 on November 25, 2013, you arrived  
10 on the scene at Millbank and Bradburn; correct?

11 A. That's correct.

12 Q. And that was after we heard on the radio  
13 Officer Prinzi asks officers to go to that area;  
14 correct?

15 A. Correct.

16 Q. So after Prinzi asks for officers to go to  
17 that area, first Hogg arrives there, and then you  
18 arrive shortly after him?

19 A. That's correct.

20 Q. And then what happened next?

21 A. I would have to see the report.

22 Q. As we sit here today, what's the next  
23 thing that you remember happening?

24 A. I don't recall anything.

25 Q. Do you recall arriving at the scene that



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1 OFFICER DANIEL WATSON - BY MR. SHIELDS

2 day?

3 A. I do not.

4 Q. Let's just finish going through the CAD  
5 report and the radio call and see if that refreshes  
6 your recollection at all. Okay?

7 A. Okay.

8 Q. So we've got 8:07 you arrive onscene, and  
9 then the next thing that's reported here is another  
10 officer assist or enroute to 19 Roslyn; right? And  
11 then 2008 -- so that would be 8:08 p.m. correct --  
12 5313. That was -- that's Prinzi; correct?

13 A. Correct.

14 Q. All right. And it says -- one second.  
15 I've got a little computer glitch here.

16 You can still see the document displayed  
17 on the screen over there?

18 A. Yes.

19 Q. So it says 5313 (as read): Was with  
20 another male black red/gray hoodie on bike in area  
21 together.

22 Correct?

23 A. Yep.

24 Q. So that's at 8:08, and that's after you  
25 and Hogg had arrived on the scene at Millbank and



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2 Bradburn; right?

3 A. According to this document, yes.

4 Q. All right. So let's go back to the audio  
5 recording that we marked as Exhibit 2, the radio  
6 calls. And so we had paused at 2 minutes and 23  
7 seconds into that recording, and I'm going to hit Play  
8 again. Okay?

9 (Audio recording played)

10 Q. Now, I paused at 2:36 into the audio.  
11 Officer Watson, the last thing we heard there, do you  
12 know if that was you calling out?

13 A. That was my car number, yes.

14 Q. So that was you calling out your car  
15 number, 5223?

16 A. Correct.

17 Q. So that was right before we paused at 2:36  
18 into the audio. And do you know what you were saying  
19 when you called out your car number there?

20 A. I do not.

21 Q. So I'm just going to rewind to 2:30 into  
22 the recording. I just want to understand what you  
23 called out your car number for.

24 (Audio recording played)

25 Q. I'm sorry. Did you hear yourself again?



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2 A. Yes.

3 Q. Do you know what the call number for your  
4 car -- what that indicated?

5 A. That was me adding myself to the job.

6 Q. When you called out and added yourself to  
7 the job, did that mean -- does the CAD report indicate  
8 that you had arrived onscene?

9 A. I don't know where I was exactly. The CAD  
10 report says onscene, but that could be anything.  
11 Because I don't believe I was out with Officer Hogg  
12 prior to that.

13 Q. You don't remember being with Hogg, like,  
14 and arriving at the scene together?

15 A. No.

16 Q. Sometimes the -- well, let's keep  
17 listening, I guess, and see if you call out onscene or  
18 something like that.

19 Would that be something that you'd  
20 normally do, call out and say "Onscene"?

21 A. Typically.

22 Q. So that's how they know to put the  
23 notation into the document that says that you have  
24 arrived onscene?

25 A. Correct.



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2 Q. Okay. So I had paused Exhibit 2, the  
3 radio call, to 2 minutes and 45 seconds in, but I just  
4 want to rewind it back to 2 minutes and 30 seconds  
5 again, which was about 5 to 6 seconds before you said  
6 previously that you heard yourself call your car  
7 number out. I want to listen to that and then go  
8 forward a little bit and see if we can hear you call  
9 out that you had arrived onscene.

10 So if I could ask you to just, you know,  
11 say "Oh, that's it" if you hear it. Okay?

12 A. Yes.

13 Q. Okay. Thanks.

14 (Audio recording played)

15 Q. Okay. So I'm going to pause it at 3  
16 minutes and 37 seconds into the radio calls which are  
17 marked as Exhibit 2.

18 And, Officer Watson, did you hear yourself  
19 call out onscene at any point?

20 A. I did not.

21 Q. So would that indicate to you that over  
22 here where it says 2007, that's when you arrived  
23 onscene?

24 A. That's when I put myself on the job. I  
25 cannot tell you if I arrived on the scene at that



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2 point.

3 Q. But -- well, let me ask you this: When  
4 you arrived on the scene, was Officer Hogg already  
5 there?

6 A. Yes.

7 Q. And what else do you remember from when  
8 you first arrived on the scene?

9 A. I don't recall. I just have to -- I would  
10 have to look at Officer Hogg's IAR to which he covered  
11 me in.

12 Q. When you arrived on the scene, do you know  
13 who was there?

14 A. I do not.

15 Q. Now, you reviewed some documents in  
16 preparation for the deposition today; right?

17 A. Correct.

18 Q. And did those refresh your recollection  
19 about the incident at all?

20 A. They did not.

21 Q. So anything that you know about the  
22 incident comes from the contemporaneous records that  
23 were made at that time?

24 A. It comes from the IAR that Officer Hogg  
25 covered me in and this CAD printout as well as the



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1 OFFICER DANIEL WATSON - BY MR. SHIELDS

2 audio, yes.

3 MS. CHRISTIE: Mr. Shields, I just would  
4 note we've been going for about an hour and a half.  
5 So if you could take a five-minute break at some point  
6 that it's convenient for you, you know, within the  
7 next 15 minutes, I'd appreciate it.

8 MR. SHIELDS: Now is as good a time as  
9 ever. So that works for me.

10 MS. CHRISTIE: Okay.

11 MR. SHIELDS: So it's 11:16. You want to  
12 come back maybe 11:25?

13 MS. CHRISTIE: That's fine.

14 THE VIDEOGRAPHER: The time is 11:17.  
15 We're off the record.

16 (The proceedings recessed at 11:16 a.m.)

17 (The proceedings reconvened at 11:26 a.m.;  
18 appearances as before noted.)

19 THE VIDEOGRAPHER: The time is 11:27.  
20 We're back on the record.

21 OFFICER DANIEL WATSON, resumes;

22 CONTINUING EXAMINATION BY MR. SHIELDS:

23 Q. Officer Watson, real quick before I get  
24 back to my questions, we just took a break for about  
25 ten minutes.



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2 During that time, did you have a chance to  
3 speak with your attorney at all?

4 A. No, I did not.

5 Q. After taking a break, are there any  
6 answers to any questions that you gave that you'd like  
7 to change your answer to?

8 A. No.

9 Q. Anything that you'd like to clarify at  
10 all?

11 A. Nope.

12 Q. So I just want to go through the rest of  
13 the CAD report with you.

14 So you arrive onscene at 8:07, and at that  
15 point Officer Hogg had already arrived; correct?

16 A. Correct.

17 Q. Now, your number is 5223; right?

18 A. Yes.

19 Q. So let's -- as we look at this second  
20 page, can you tell me --

21 A. You know I can't see it; correct?

22 Q. Oh, I'm sorry. Let me put up Exhibit 1 on  
23 the screen again.

24 A. Thank you.

25 (There was a discussion off the record.)



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2 Q. So after you arrived, on this second page  
3 of the CAD report, what's the next entry that involves  
4 you?

5 A. I don't see one on this page.

6 Q. Okay. So let's go to the third page.  
7 What's -- do you see anything on this third page of  
8 the CAD report that involves you?

9 A. Yeah, I changed the location.

10 Q. So is that at 2032 or 8:32?

11 A. Correct.

12 Q. Okay. And it says West High and Genesee?

13 A. Correct.

14 Q. And then right above that, is that --  
15 5323, is that Hogg?

16 A. Yes, it is.

17 Q. So Hogg calls out right before you, and  
18 then you call it out also?

19 A. I don't recall. I would have to hear it.

20 Q. Okay.

21 A. I'm assuming Officer Hogg probably just  
22 did it for the both of us, but that's just an  
23 assumption.

24 Q. Okay. So the CAD report just means that  
25 both of you were changing locations, and it says (as



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2 read): West High and Genesee with two males waiting  
3 for investigator?

4 A. Yes.

5 Q. And then it says 2034 onscene. So that  
6 means that onscene at West High and Genesee; is that  
7 what that means?

8 A. Yes.

9 Q. And then if we go down to 2054 it says  
10 positive on show-up. Do you remember what that means  
11 at all?

12 A. Show-up procedure was done which was  
13 positive.

14 Q. Do you remember -- do you have an  
15 independent recollection of any of that at all?

16 A. No, I do not.

17 Q. Now, do you know why you and Officer Hogg  
18 took these two males into custody?

19 A. I do not.

20 Q. Do you have any independent recollection  
21 at all of taking them into custody on September 25,  
22 2013?

23 A. I do not.

24 Q. And when you arrived at the scene on  
25 September 25, 2013, at Millbank and Bradburn, the only



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